

## REMARKS

Reconsideration of the present application is respectfully requested.

### Summary of Office Action

Claims 10, 14 and 31-36 stand rejected under 35 U.S.C. § 103(a) based on Duggan et al. 6,571,257 in view of Eschelbeck et al. 6,553,377, in view of Lee 7,089,313.

### Interview Summary

A telephonic interview was conducted between the Examiner and Applicants' representative (the undersigned) on 1/15/2009. Claims 10 and 34 were discussed. In particular, Applicants' representative pointed out differences between the cited references and the claimed invention, as substantially reflected in the remarks below. No particular agreement was reached, however, the Examiner agreed to give full consideration to Applicants' remarks when formally submitted (i.e., in this response).

### Summary of Amendments

No claims have been amended, canceled or added in this response.

### Discussion of Rejections

In the Office Action, the Office acknowledges that Duggan does not disclose the limitation that the agent is a separate device from the storage server and the MMA. However, the Office cites Eschelbeck as disclosing this limitation. The Office further acknowledges that the combination of Duggan and Eschelbeck do not disclose the limitation that the agent uses a file system different from any file system that the storage server uses; however, the Office cites Lee as disclosing that limitation.

Applicants respectfully traverse the rejections. Although Applicants' arguments here are directed to the alleged combination of references, it is still necessary to consider their individual disclosures, in order to ascertain what combination, if any, could be made from them. Toward that end, Applicants respectfully submit the following points, which are discussed in detail below:

- 1) Duggan does not disclose everything the Office Action alleges, particularly a summary of a directory in which the file is located.
- 2) Eschelbeck not only fails to disclose the agent being separate from the storage server and the MMA, as the Office alleges, but in fact teaches away from such an architecture.
- 3) Eschelbeck is non-analogous art.
- 4) The alleged motivation to combine Lee with Duggan/Eschelbeck lacks merit.
- 5) Lee is non-analogous art.

1) Duggan does not disclose everything the Office Action alleges, particularly a summary of a directory in which the file is located.

The Office alleges that Duggan discloses a summary of a directory in which the file is located (Office action, page 3). Applicants respectfully disagree.

Duggan discloses storing "initialization phase data" in a "composite SRM data repository 150" (figure 1; column 4, lines 12-17). Nowhere, however, does Duggan even mention a "directory". Furthermore, assuming *arguendo* Duggan discloses a file system that includes one or more directories, and assuming *arguendo* "initialization phase data" includes information about a file in the file system, such disclosure still does not amount to, or inherently include or suggest, forming a summary of a directory in which the file is located. There are many different attributes and characteristics of a file system that can potentially be compiled and stored in a database, such as composite

SRM data repository 150 in Duggan, other than information about directories. As such, the information being compiled in Duggan does not necessarily include any information about directories in the file system, much less a summary of a directory. Note that “[i]nherency . . . may not be established by mere probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” Continental Can Co. v. Monsanto Co., 948 F.2d 1264, 1269 (Fed. Cir. 1991)(quoting In re Oelrich, 666 F.2d 578, 581, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981) (emphasis added). In this regard to this limitation, therefore, the Office has read too much into Duggan.

Likewise, the other references also are not seen to disclose the limitation in question. For at least this reason, the cited combination of references does not disclose all the limitations of Applicants' independent claims and, therefore, cannot render those claims obvious.

2) Eschelbeck not only fails to disclose the agent being separate from the storage server and the MMA, but in fact teaches away from such an architecture.

The Office acknowledges that Duggan does not disclose the limitation that the agent is a separate device from the storage server and the MMA. However, the Office cites Eschelbeck in Fig. 2 (Office action, page 4) as disclosing that limitation. Applicants respectfully disagree.

Eschelbeck teaches that an agent is included in a client system that is being managed. For example, in figure 2 of Eschelbeck, agents 58, 59, 60 and 61 clearly are included in clients 46, 47, 48 and 49, respectively. See also, col. 5, line 66 to col. 6, line 2. To that extent, therefore, Eschelbeck clearly discloses the opposite of what the Office alleges and, moreover, teaches away from the limitation in question.

For this additional reason, therefore, the cited combination of references does not disclose all the limitations of Applicants' independent claims and, therefore, cannot render those claims obvious.

3) Eschelbeck is non-analogous art.

The present invention relates to management of network storage resources. Eschelbeck, in contrast, relates to management of client-side security applications. There would be no reason one of ordinary skill in the art would consider techniques of managing client-side security applications in attempting to achieve the present invention. For this additional reason, therefore, the cited combination of references does not render Applicants' independent claims obvious.

4) The alleged motivation to combine Lee with Duggan/Eschelbeck lacks merit.

The Office cites Lee as allegedly disclosing the limitation of the agent using a file system different from any file system that the storage server uses. The Office asserts that the motivation to combine the teachings of Lee with those of Duggan/Eschelbeck is "to increase the efficiency of the collection process by allowing devices with different protocols to communicate with one another" (Office action, page 4). Applicants respectfully disagree.

In Lee, the purpose of an agent is to enable communication between other devices (mobile devices) that use different communication applications from each other (and, therefore, different protocols) (see abstract). (Note that in the present application, even though the agent itself may use a different protocol than what the storage server uses, the claims do not recite that the agent enables other devices with different protocols to communicate with each other, as in Lee, nor is that the purpose of the agent of the present invention). The Office has not explained why there would be any

need or benefit in the systems of Duggan or Eschelbeck for an agent that enables communication between other, dissimilar devices. Applicants respectfully submit that there is no need, such that the alleged motivation to combine Lee with Duggan/Eschelbeck lacks merit.

There would be no reason for someone of ordinary skill the art to try to combine the teachings of Lee with those of Duggan or Eschelbeck. For this additional reason, therefore, the cited combination of references does not render Applicants' independent claims obvious.

5) Lee is non-analogous art.

The present invention relates to management of network storage resources. Lee, in contrast, relates to communication between mobile devices. There would be no reason one of ordinary skill in the art would consider techniques for enabling communication between mobile devices in attempting to achieve the present invention. For this additional reason, therefore, the cited combination of references does not render Applicants' independent claims obvious.

For all of the above-mentioned reasons, individually and collectively, the present invention would not be obvious based on the cited art.

Applicants have not necessarily discussed here every reason why every pending independent claim is patentable over the cited art; nonetheless, Applicants are not waiving any argument regarding any such reason or reasons. Applicants reserve the right to raise any such additional argument(s) during the future prosecution of this application, if Applicants deem it necessary or appropriate to do so.

Dependent Claims

In view of the above remarks, a specific discussion of the dependent claims is considered to be unnecessary. Therefore, Applicants' silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim.


Conclusion

For the foregoing reasons, the present application is believed to be in condition for allowance, and such action is earnestly requested.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-2207, under Order No. 672728061US1 from which the undersigned is authorized to draw.

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Respectfully submitted,

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